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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers	)	CC Docket No. 95-185

COMMENTS IN RESPONSE TO PETITIONS FOR RECONSIDERATION

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Summary

Paging Network, Inc. ("PageNet") hereby submits its comments in response to petitions for reconsideration.

Two petitioners, Kalida Telephone Company, Inc. ("Kalida") and the Local Exchange Carrier Coalition ("LECC"), sought reconsideration of the Commission's decision to afford paging carriers compensation for terminating calling traffic originated on the networks of the local exchange carriers ("LECs"). Kalida and LECC advance several arguments attempting to distinguish paging service from other CMRS services. However, their arguments are grounded in the notion that paging traffic is one-way and, therefore, not entitled to reciprocal or mutual compensation. In these Comments, PageNet demonstrates that these arguments have no bearing upon the undisputed fact that paging carriers incur a cost when terminating calling traffic that originated on the LEC's network. It is this cost for which paging carriers must be compensated.

Both Kalida and LECC argue that Section 251(b) of the Act does not provide a basis for providing termination compensation. For the sake of argument, even assuming this were true, there is a separate codified basis for compensation to paging carriers under Section 332 of the Act and Section 20.11 of the Commission's Rules.

These comments also discuss the Commission's basis for jurisdiction over all CMRS rates, including interconnection rates, under Section 332 of the Act.

In addition to the two petitions regarding reciprocal compensation for paging carriers, two power utilities filed petitions seeking reconsideration and clarification of the First Report in a manner that would prevent access to any utility poles, ducts, conduits or rights-of-way under Section 224(f) of the Act by wireless carriers. In these comments, PageNet demonstrates that all CMRS carriers are "telecommunications carriers" as the term is used in Section 224(f) and eligible for nondiscriminatory access to utility poles, ducts, conduits, or rights-of-way.

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To: The Commission

COMMENTS IN RESPONSE TO PETITIONS FOR RECONSIDERATION

Paging Network, Inc. ("PageNet"), by its attorneys, hereby submits its comments in response to the petitions for reconsideration and clarification of Kalida Telephone Company, Inc. ("Kalida"), the Local Exchange Carrier Coalition ("LECC"), Florida Power & Light ("Florida Power"), and Consolidated Edison Company of New York, Inc. ("ConEd") filed in the above-captioned dockets.[1]

The Kalida and LECC petitions are thinly veiled attempts to avoid paying paging carriers their due for termination of LEC

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1 To the extent necessary, PageNet requests that the Commission treat these comments as an opposition pursuant to 47 C.F.R. 429(f) with respect to the Kalida and LECC petitions.

DCLIB-0043037.01-JSROTY

originated calls. A failure to pay paging carriers compensation is a violation of Sections 201(b) and 251(b)(5) of the Act[2] and the failure to pay paging carriers compensation when other carriers will receive such compensation is in violation of Section 202(a). In addition, the Florida Power and ConEd petitions wish to limit the ability of CMRS carriers to seek nondiscriminatory access under Section 224(f) of the Act. These comments demonstrate that wireless carriers are entitled to such nondiscriminatory access under Section 224(f) of the Act. Further, these comments support the joint petition for reconsideration of Comcast Cellular Communications, Inc. ("Comcast") and Vanguard Cellular Systems, Inc. ("Vanguard") in that the Commission's jurisdiction over LEC-CMRS interconnection should be governed under Section 332 of the Act.

I. The FCC Correctly Held That Paging Carriers Are Entitled To Termination Compensation

A. The One-Way Nature Of Most Paging Traffic Does Not Deprive Paging Carriers Of The Right To Compensation For Their Costs Of Terminating Traffic

The FCC, in its Report and Order[3] at ¶ 1008, concludes that "LECs are obligated . . . to enter into reciprocal compensation

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2 Communications Act of 1934, as amended (the "Act").

3 *In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98; *Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket No.
Continued on following page

arrangements with all CMRS providers, including paging carriers, for the transport and termination of traffic on each other's networks." Kalida does not dispute that cellular carriers and other wireless carriers obtaining both terminating and originating service are entitled to compensation. Rather, Kalida seeks to distinguish between paging carriers and other CMRS carriers, claiming that it should not have to pay paging carriers compensation for their termination of LEC calls.[4] To convince the Commission to treat paging carriers differently from other CMRS carriers with respect to reciprocal compensation, Kalida essentially puts forth variations of a single argument -- that paging traffic is one-way, and therefore not entitled to "reciprocal" or "mutual" compensation.

PageNet does not disagree that the vast majority of traffic presently carried over "stand-alone" paging carrier facilities originates on LEC facilities and terminates on the paging carrier facilities, or in Kalida's parlance, is one-way. In its petition, LECC correctly characterizes PageNet's description of the services offered today, and for the near term as "one-way

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95-185, First Report & Order, released August 8, 1996 ("*First Report*")

4 Kalida Petition at 2-4

non-interactive communications."[5] However, the one-way nature of the traffic does not provide a basis to withhold compensation for the costs incurred in terminating that traffic. Neither Kalida nor LECC challenge the fact that such costs for termination are incurred by paging carriers. Certainly if they believed that no costs were in fact incurred, they would have said so. But even they recognize the irrationality of such a position. As PageNet demonstrated in its Comments and Reply Comments, and as the Commission recognized in the *First Report*, paging carriers are entitled to compensation[6] because paging carriers do incur costs for their role in the termination of calls which originate on another carriers' network.

Since the facts inescapably lead to paging carrier compensation, Kalida and others here attempt a subterfuge to convince the Commission that, although costs are incurred, they are not compensable. In other words, they seek an excuse not to pay termination compensation to paging carriers. PageNet respectfully suggests that the reason LECs now appear willing to accept the notion of compensation flowing between two-way providers of wireless services, (albeit belatedly) is because most of the traffic between these networks still originates on

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5 *See* LECC Petition at 18. *See also* PageNet Reply Comments, CC Docket No. 96-98 (filed May 30, 1996) at 7-8.

6 *First Report* at ¶ 1008.

the wireless network and terminates on the landline network. In other words, the wireline carriers get the bulk of the termination associated revenues. It is only when the LECs see having to pay another carrier in greater proportion than the revenues they receive from that carrier that it has a problem with the concept of termination compensation, but the LECs cannot have it both ways. All carriers, not just the LECs, must receive compensation for their costs of terminating another carrier's calls.

If the LECs have their way, traditional paging carriers would receive no compensation for terminating calling traffic, but cellular and PCS carriers would receive compensation for terminating the identical traffic -- paging and other one-way calls that terminate on the cellular and PCS networks. Certainly it is competitively unjustifiable to allow cellular and PCS carriers to be compensated for terminating paging traffic but not traditional paging carriers.[7] As PageNet's Comments demonstrated, compensating cellular and PCS for the vast amounts

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[7] Of course, Kalida is not interested in competition in the CMRS marketplace. Since Kalida has been obligated to pay mutual compensation to cellular carriers for terminating calling traffic for some time, a battle the LECs lost years ago, Kalida's only interest is ensuring that it does have to pay mutual compensation to paging carriers. It fails to recognize that, under Section 20.11, it also lost that battle years ago. Like other LECs, it apparently has been ignoring its obligation to pay compensation to all CMRS carriers.

of one-way traffic they receive, but not compensating paging carriers for the same traffic, would be both unreasonably discriminatory, and introduce intolerable, uneconomic distortions into the market. PageNet points out (PageNet Comments at 9-14), that a PCS carrier who, like Sprint Spectrum, offers paging service to its customers, would be compensated for the calls LEC customers place to paging subscribers using the PCS network, but paging carriers terminating the identical calls would not, because the paging carrier does not offer originating service to its subscribers.

The absurdity of hinging compensation on the two-way nature of the traffic exchange is illustrated by the following example. In Kalida's view, taken to its logical conclusion, if a cellular network terminated one million LEC-originated calls in one month and originated one call in that month, the cellular carriers would be entitled to reciprocal compensation for traffic termination. In addition, in Kalida's view, if those one million calls terminated on the cellular system were pages, the cellular carrier would be paid termination compensation. But, in Kalida's view, a paging carrier, who must compete with the cellular carrier offering a messaging service and incurs the same costs in call termination, would receive no compensation for its call termination just because it did not generate a single call to the LEC. The fact remains that paging carriers, just like all other CMRS carriers, incur a cost for terminating calls originated on another network. Paging carriers are entitled to compensation for that cost.

Kalida's premise that paging carriers should be treated differently because paging carriers must be interconnected to the Public Switched Telephone Network ("PSTN") to offer service, but services such as cellular and PCS may offer stand-alone service without being interconnected to the PSTN, is both illogical and wrong.[8] Differentiation between paging and cellular carriers based upon interconnection is simply erroneous. By FCC rule Section 22.946, no cellular system may operate without being interconnected to the PSTN. In fact, the notion that PCS and cellular providers, or any other provider of telecommunications service, could operate an economically viable business without being interconnected to the PSTN is absolute fiction, a notion that clearly does not provide a basis for discrimination by denying paging carriers a compensation for terminating calling traffic originated on the networks of the LECs.[9]

To bolster its argument that paging carriers offer one-way services that are not entitled to compensation, Kalida equates paging carriers to answering services bureaus. Kalida claims that, because LECs are not required to compensate answering

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8 Kalida Petition at 2-4.

9 Very few calls are cellular to cellular or PCS to PCS.

services for delivering messages, LECs should not be have to pay compensation to paging carriers. However, unlike answering services bureaus, like cellular carriers, paging carriers: (a) have been correctly found to be co-carriers[10] under the 1934 Act and covered by Section 20.11;[11] and (b) are telecommunications carriers under the 1996 Act and covered by Section 251(b)(5). Further, paging carriers, unlike answering services, incur costs for terminating calling traffic originating on the LEC's networks.

B. Section 251(b)(5) Requires LECs To Pay Paging Carriers Compensation For The Cost Associated With Termination Of Calling Traffic Originated On The LECs Network

Kalida is incorrect in its assertion that Section 251(b)(5) only applies when there is traffic exchanged between two networks.[12] Section 251(b)(5) requires the recovery by each

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10 *See Radio Common Carrier Services (Post-Divestiture BOC Practices)*, 59 RR 2d 1275, 1278 (1986); *see also Allocation of Frequencies in 150.8-162 Mc/S Band*, 12 FCC 2d 841 (1968), *recon. denied*, 14 FCC 2d 269, *aff'd sub nom., Radio Relay Corp. v. FCC*, 409 F.2d 269 (2nd Cir., 1969); *Cellular Communications Systems*, 86 FCC 2d 469, 495-496 (1981); *Cellular Communications Systems*, 89 FCC 2d 58, 80-82 (1982); *Cellular Communications Systems*, 90 FCC 2d 571, 576-577 (1982); *The Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services*, 2 FCC Rcd 2910, 2915 (1987); and *Implementation Of The Regulatory Treatment Of Mobile Service, Second Report and Order,* GN Docket No. 93-252, 9 FCC Rcd 1411, 1497-1498 (1994)("*Second CMRS Order*").

11 *See Second CMRS Order*, 9 FCC Rcd at 1452-1462.

12 Kalida Petition at 5-6.

carrier of that carrier's cost associated with the termination of calls that originate on the networks of other carriers. Further, there already exists in the FCC rules and regulations a separate basis for requiring the payment of termination compensation to paging carriers. Specifically, Section 20.11 of the Commission's rules already mandates that LECs compensate all CMRS carriers, including paging carriers, for the costs incurred by the paging carrier in the termination of calling traffic.[13]

In its petition, Kalida makes the argument that the fundamental difference between one-way and two-way services is that the only reason a customer subscribes to a paging service is to be called.[14] Kalida reasons that this desire to be called makes paging end-users the cost-causers of the paging network and this fact alone should release it from the obligation to compensate paging carriers for the cost of terminating calling traffic originated on the networks of the LECs and terminated on a paging carrier's network. This argument is irrational and has no analogy in existing practices. For example, the reason a two-way landline subscriber places its phone number in the phone book is to be called. Taken to its logical conclusion, LECs should not be compensated for the use of their networks for those calls to their subscribers. Of course, nowhere in Kalida's petition

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13 *See* 47 C.F.R. § 20.11.

14 Kalida Petition at 4-5.

does it suggest that it is not entitled to receive compensation for calls it terminates on behalf of its subscribers.

C. The Terms "Mutual" And "Reciprocal" Are Related To Carriers' Obligations Not Traffic Flow

The argument that LECs have raised for many years to deny paging carriers mutual compensation, now called reciprocal compensation, is that because the flow of traffic between the LEC and the paging networks is not "mutual" or "reciprocal," the LECs do not have to pay the paging carriers for terminating calling traffic originated on the LECs network.[15] However, this is a misinterpretation of use of the terms "mutual" and "reciprocal" with respect to termination compensation. It is the carrier's obligation to pay that is mutual or reciprocal, not the flow of traffic. As the Commission found in the *First Report* carriers, including pagers, are entitled to recover their costs of terminating another carrier's traffic.[16] The fact that traffic flows are only one-way is irrelevant to compensation entitlement.

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15 Kalida Petition at 6-7.

16 *First Report* at ¶ 1008.

D. Universal Service Has No Bearing On Reciprocal Compensation

In its petition, Kalida also complains that reciprocal compensation will require it to pay from flat-rate local service revenues a usage-sensitive termination rate.[17] According to Kalida, pressure will be placed on LECs to move to usage-sensitive local rates or other usage sensitive methods, and, they believe studies have found that such usage sensitive charges have a detrimental effect on universal service objectives. These concerns have nothing to do with a paging carrier's right to be compensated for the cost that the paging carrier incurs when terminating calling traffic originated on the LEC's network. Kalida's cost recovery, either from its subscriber's access charges or the Universal Service Fund, already includes a component for the cost of terminating calling traffic. If Kalida is not terminating that traffic because the traffic is terminated on the paging network, Kalida is collecting a rate component that belongs to the paging carriers. Termination compensation for paging carriers has nothing to do with universal service objectives or the fact that Kalida uses a flat-rate structure.

Moreover, this argument, if adopted, would eliminate Kalida's obligation to pay all carriers who interconnect with them under Section 251(b)(5). Yet clearly, Section 251(b)(5)

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17 Kalida Petition at 7-8.

entitles telecommunications carriers to compensation. That section provides Kalida and other carriers no escape clause based on the fact that they charge flat rates. It provides no escape clause to LECs that rely, either a little or a lot, on universal service fund revenues. It says, plain and simple, that LECs have a duty to establish reciprocal compensation.

E. Compensation For Terminating Calling Traffic Does Not Create Irrational Incentives To Create Bizarre Pricing Structures Nor Does It Create A Subsidy For Paging Carriers

In its petition, Kalida advances the notion that compensation to paging carriers will produce incentives to create false traffic and allow paging carriers to employ autodialers to increase the compensation it must pay to the paging carriers.[18] Of course, the same argument could be advanced for all telecommunications carriers, not just paging carriers, but the argument is just as invalid. For every telecommunications carrier, increased traffic means increased costs. The cost of completing a page on a PageNet radio system is much more expensive than the compensation PageNet will receive in the context of termination compensation. If, for example, LEC proxies are used as a basis for recovery, the $.002 to $.004 of termination compensation would be a fraction of the expense associated with terminating a call over the satellite controlled

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[18] Kalida Petition at 8-9.

radio frequency network, to say nothing of the costs of the spectrum one would be occupying for such calls. No rational carrier would incur the costs of switching, endure the capacity constraints, or incur the radio frequency costs for this significant, but comparatively speaking, nominal sum. It would be like spending a dollar to get a dime.

In its petition, LECC argues that compensation to paging carriers for call termination is a subsidy to paging companies and requires the LECs to pay the paging companies for use of the LEC's network.[19] This is a false assertion and misconstrues who is using the LEC's network. The fact is that the LEC is compensated by its customer when its customer places a call. Part of the rate the LEC charges its customer when this customer, not the paging company, uses the LEC network, is for terminating the call. If the call is terminated on the paging carrier's network, the LEC does not incur a cost of termination, but the paging carrier does. This means, if the paging carrier is not paid termination compensation, the LEC receives a subsidy from its customer's use of the network when making a call that will end in a page, because the LEC will be unlawfully receiving compensation for call termination that was incurred by the paging carriers.

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19 LECC Petition at 17-18.

II. The LEC That Provides Interconnection To the Paging Carrier Is The Carrier That Must Be Responsible For the Payment Of Termination Compensation

Kalida argues that it should not be required to pay termination compensation if a call is originated on another local network, routed through Kalida's network, and terminated on the paging carrier's network or, in other words, for traffic which transits, but does not originate on its network.[20] However, for that call, Kalida will charge the originating carrier for all termination, a cost that Kalida will not incur because the call will be terminated on the paging carrier's network. This is likely true even where no actual dollars are exchanged between the originating and the transiting carrier. These circumstances are covered by the various LEC agreements, among LECs and so-called independent telephone companies, which often are on a "bill and keep" basis. Bill and keep, of course, does not imply that carriers are not compensated -- only that the exchange of dollars is unnecessary because payment by one carrier to another would be at best roughly equivalent. Thus, Kalida cannot claim that the carrier that routed the call to it does not compensate it for terminating the call. In the paging carrier context,

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20 Kalida Petition at 9-10.

however, it is the paging carrier that terminates the call, and is therefore entitled to an appropriate amount of compensation.[21]

III. The Commission Has Plenary Jurisdiction Over CMRS Call Termination Rates For Interconnection With The LECs

In a joint petition, Comcast and Vanguard requested that the Commission clarify that Section 332 of the Act vest the Commission with exclusive jurisdiction over LEC-to-CMRS interconnection.[22] PageNet supports this position and, like PCIA, believes the Commission should uncouple the LEC CMRS interconnection into a separate proceeding.

The Telecommunications Act of 1996 confirms that the Commission has plenary and exclusive jurisdiction over the rates charged by CMRS providers to terminate traffic originating from LECs and other co-carriers. Section 253(e) expressly preserves the removal of state jurisdiction over CMRS interconnection agreements under Section 332(c)(3) of the Act. Further, eliminating any uncertainty over the Commission's authority to occupy the field, Section 251(d) provides that the Commission "shall complete all actions necessary to establish regulations to

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21 Of course, this does not mean that Kalida, as the transiting carrier, is not entitled to compensation from the originating carrier for its role in the calls routing to the terminating carrier.

22 Joint Petition of Comcast and Vanguard at 22-23.

implement" the interconnection and other provisions in Section 251 of the new legislation.

In the Omnibus Budget Reconciliation Act of 1993, Congress amended Section 332 of the Act to provide that "no State or local government shall have any authority to regulate the entry of or the rates charged by any commercial mobile service."[23] This categorical language removes all state jurisdiction over CMRS rates, including the rates charged by CMRS providers to terminate traffic originated by LECs and other co-carriers.[24] In that same legislation, Congress amended Section 2(b) to provide that the Communications Act does not affect the states' retained jurisdiction over intrastate services "[e]xcept as provided in . . . Section 332."[25] That amendment clarifies that Congress removed from the states jurisdiction over rates and entry for both interstate and intrastate commercial mobile services.[26]

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[23] 47 U.S.C. § 332(c)(3).

[24] *See Florida Public Telecommunications Ass'n. v. F.C.C.*, 54 F.3d 857 (D.C. Cir. 1995).

[25] 47 U.S.C. § 152(b).

[26] Under Section 332(c)(3), a state desiring to retain jurisdiction over CMRS rates was required to submit a petition to the Commission showing that (i) CMRS market conditions fail to protect consumers against unreasonable or discriminatory rates; or (ii) such market conditions exist for services serving as a substitute for landline local exchange services. By spelling out in detail how a state can obtain jurisdiction over CMRS rates, this provision

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The removal of state authority over CMRS rates stemmed from Congress' recognition that uniform federal policies are necessary to promote the nationwide growth of mobile services. Congress acknowledged that, by their nature, mobile services operate without regard to state jurisdictional boundaries.[27] In that environment, disparate state regulation of commercial mobile services could undermine the development of CMRS competition and the nation-wide build-out of a wireless infrastructure. Congress intended for mobile services to be subject to uniform rules,[28] and it logically selected the Commission to exercise plenary and exclusive jurisdiction over intrastate and interstate CMRS entry and rates.[29] Using that authority, the Commission could "establish a Federal regulatory framework to govern the offering of all commercial mobile services."[30]

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confirms that Congress intended to remove such authority in the first instance through Section 332(c)(3).

27 *See* H.R. Rep. No. 103-111, 103d Cong., 1st Sess. at 260 (1993) (Congress intended to "foster the growth and development of mobile services that, by their nature, operate without regard to state lines as an integral part of the national telecommunications infrastructure").

28 *Id.* at 259.

29 *See* H.R. Rep. No. 103-213, 103d Cong., 1st Sess. at 497 (1993) (emphasizing amendment to 47 U.S.C. § 152(b) as "clarify[ing] that the Commission has the authority to regulate commercial mobile services").

30 *Id.* at 490.

The Commission need not reach the question whether Section 332(c)(3) gives it exclusive jurisdiction over the rates charged by LECs or other co-carriers to terminate traffic originated by paging carriers.[31] As noted above, paging traffic is one-way; it is all terminated by the paging companies. As a result, the question is whether the Commission has jurisdiction over CMRS termination rates, and Section 332(c)(3) expressly answers that question in the affirmative.

The Commission's jurisdiction under Section 332(c)(3) extends to the outrageous but common LEC practice of charging paging companies for traffic which *the paging companies* terminate and for which the LECs otherwise receive over-compensation from the rates they impose upon end-user callers which the Commission has just found unlawful. The Commission's jurisdiction over CMRS rates for terminating LEC-originated traffic necessarily extends to any attempt by LECs to impose rates upon paging companies for the exact same traffic. If the Commission has exclusive jurisdiction over the rates charged by CMRS providers to terminate LEC-originated traffic, then it has exclusive

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31 In a previous decision, the Commission held that state regulation of interconnection rates for LEC wireline services was outside the scope of exclusive federal jurisdiction under Section 332(c)(3). *Petition on Behalf of the Louisiana Public Service Commission for Authority to Retain Existing Jurisdiction Over Commercial Mobile Radio Services Offered Within The State of Louisiana*, 10 FCC Rcd 7898, 7908 (1995).

jurisdiction over efforts by LECs to collect fees from paging carriers for that same land-to-mobile terminating traffic. Such fees would operate as an offset against the CMRS provider's termination rates, and the Commission cannot regulate the latter effectively without regulating the former as well.

The Telecommunications Act of 1996 expressly confirms the Commission's plenary and exclusive jurisdiction over CMRS rates, including interconnection rates. Section 253 governs market entry and preemption, and subsection (e) provides that "[n]othing in this section shall affect the application of section 332(c)(3) to commercial mobile services providers." Further, by including this provision in the new legislation, Congress removed any doubt that the Commission's jurisdiction covers CMRS interconnection rates as well as retail rates charged by CMRS providers to end users. Were Section 332(c)(3) limited to retail rates alone, there would have been no need to insert subsection (e) into Section 253.[32] Therefore, Section 332(c)(3) of the Act removes all state authority over entry and rates for the interstate and intrastate services of CMRS providers.

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32 *See Russello v. United States*, 464 US 16, 23 (1983)(when Congress uses different language in different sections of a statute, it does so intentionally); *see also International Union, WMVA v. MSHA*, 823 F.2d 608 (DC Cir. 1987).

Finally, paging traffic is inherently interstate in nature, and this characteristic of the service requires that the Commission exercise exclusive jurisdiction over it. A paging call on the PageNet network is transmitted simultaneously from a number of transmitters located in different states in order to provide regional or national coverage. Thus, a call originated in Washington, D.C. may be terminated over facilities located in New York, New Jersey, Philadelphia, the District of Columbia, Maryland, or Virginia. Because paging customers are itinerant by definition, it is impossible to determine the terminating party's location in advance. In addition, because the paging call is broadcast simultaneously from facilities in different states, and because there is no practicable means of determining whether the party receiving the paging call will be in the state of origination or in another location, it is impossible to segregate intrastate and interstate paging calls. In such cases, the Commission must exercise plenary jurisdiction.[33]

By itself, Congress' amendment of Section 332 in the Omnibus Budget Reconciliation Act of 1993 exhibited Congress' intention that the Commission occupy the field of CMRS entry and rate

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33 *See Louisiana Pub. Ser. Comm'n v. FCC,* 476 US 355, 375 n.4 (1986). *See also California v. FCC,* 905 F.2d 1217 (9th Cir. 1990); *Illinois Bell Tel. v. FCC,* 883 F.2d 104 (D.C. Cir. 1989); *National Ass'n of Reg. Util. Comm'ners v. FCC,* 880 F.2d 422 (D.C. Cir. 1989).

regulation. Going one step further, the Telecommunications Act of 1996 removed the need to interpret such authority into Section 332. Section 251 governs interconnection and provides that every telecommunications carrier has a duty to interconnect with other carriers. As regards incumbent LECs, Section 251(c)(2) provides that such interconnection applies to both telephone exchange and exchange access services, and that interconnection must be available at any technically feasible point "on rates, terms and conditions that are just, reasonable, and non-discriminatory." By its terms, Section 251 applies equally to interconnection for intrastate and interstate services between telecommunications carriers.

Section 251(d)(1) grants the Commission authority to "complete all actions necessary to establish regulations to implement the requirements of this section." That grant of plenary authority encompasses, among other things, the rates charged by CMRS providers to LECs for the termination of LEC-originated local exchange traffic. Further, Section 251(i) confirms that the Commission retains full authority under Section 201 of the Communications Act. Section 201(a) authorizes the Commission to require common carriers to "establish physical connection with other carriers." 47 U.S.C. § 201(a). Further, Section 201(b) requires all common carriers to charge just and reasonable rates, and the Commission has jurisdiction under